

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Northern Pass Transmission, LLC

DE 15-459

SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS'

MOTION FOR REHEARING

The Society for the Protection of New Hampshire Forests (the "Forest Society"), by and through its attorneys, BCM Environmental & Land Law, PLLC, respectfully requests the New Hampshire Public Utilities Commission ("PUC") reconsider its denial of the Forest Society's Petition to Intervene pursuant to RSA 541:3 and PUC Rule 202.07 because the Commission failed to consider the extent to which Northern Pass Transmission, LLC's ("Northern Pass") proposed facility, if approved as a public utility will impact the rights, duties, privileges, immunities, and other substantial interests of the Forest Society, and that the interests of justice and orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention. In support of its request, the Forest Society states as follows:

Timeliness and Impacted Rights

Northern Pass asserts that the Forest Society's untimely filing will impair the orderly and prompt conduct of the proceedings. Simply filing late does not thereby create a disruption to the orderly conduct of this proceeding. In fact, the proceedings have several times been delayed during the last four months to allow Northern Pass and Commission staff to conduct settlement discussions. A hearing date is now scheduled for May 17, 2016 at 10:00a.m. The Forest Society is not seeking to introduce discovery, request a postponement of the hearing, or in some other

manner disrupt the current procedural schedule. The Forest Society is however, very interested in insuring that its property rights do not become impacted by a settlement or as a result of an order recognizing Northern Pass as a public utility without conditions or limitations on what that means.

In Northern Pass' Petition to Cross Public Waters, DE 15-460, the utility company itself raises precisely the potential effect on the Forest Society's right that it seeks to protect.

Northern Pass states, "[A]t the time NPT is authorized to engage in business in New Hampshire as a utility...it will be necessary...to meet the reasonable requirements of providing transmission service to the public, to cross public waters." (See Northern Pass Petition to Cross Public Waters, DE 15-460, dated October 16, 2016.) This statement alone implies that the grant of recognition as a public utility will impact the Forest Society's rights in its property under and along the banks of the Connecticut River in the vicinity of the Washburn Forest in Clarksville. Thus, Northern Pass, by its own admission, has now linked this matter squarely with the standard at issue in DE 15-460 and therefore with the Forest Society's rights, duties, privileges, immunities, and other substantial interests.

The obvious implication of Northern Pass' position stated above, and the elephant in the room, so to speak, is the real potential to circumvent the legislature's intent when it revised RSA 371:1 specifically preventing Northern Pass from utilizing the eminent domain process. While the Forest Society has not been party to settlement discussions, there seems no protection against this eventuality absent the Forest Society's admission in this proceeding.

The timing on raising this concern is linked directly to the petitions Northern Pass filed in related dockets concerning crossing public waters and lands – notice of which was not timely provided to the Forest Society as Northern Pass also admitted – and Northern Pass' claims with

respect to the authority of the N.H. Department of Transportation. (See Northern Pass Motion to Revise Procedural Schedule, DE 15-460, dated April 11, 2016; Northern Pass Comments to the U.S. Dept. of Energy dated January 11, 2016, available at http://www.northernpass.us/assets/permits-and-approvals/Northern%20Pass%20Comment%20to%20DOE_%2001.11.2016.pdf.)

As set forth above, whether it will be in the public good to grant Northern Pass permission to operate as a public utility creates a potential to impact the Forest Society's property interests. And, as set forth above, the Forest Society's intervention at this stage will not undermine the orderly conduct of the proceedings.

Finally, if the Commission nevertheless denies the Forest Society's motion for rehearing, then the Forest Society respectfully requests that the Commission Order in its findings: 1) that it has no authority to adjudicate or resolve property rights of the property owners over any of the property Northern Pass operates as a public utility now or in the future; 2) at no time now or in the future may Northern Pass or any affiliated or subsequent utility avail itself of the eminent domain process, even if state law changes and would allow such use of eminent domain; and 3) make affirmative findings that the claimed public benefit does not violate any rules governing affiliate transactions.

WHEREFORE, the Forest Society respectfully requests that the Public Utilities Commission:

- A. Grant the Forest Society's Petition to Intervene; and
- B. Grant such other and further relief as may be just.


Respectfully Submitted,

**SOCIETY FOR THE PROTECTION OF
NEW HAMPSHIRE FORESTS**

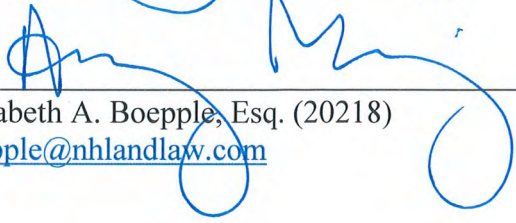
By its Attorneys,

May 5, 2016

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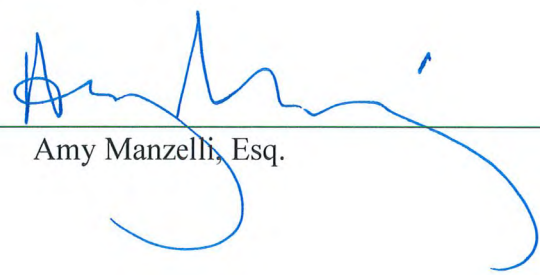
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CERTIFICATE OF SERVICE

I hereby certify that on this day, May 5, 2016, a copy of the foregoing petition was sent by electronic mail or U.S. Mail, postage prepaid, to persons named on the Service List of this docket.

By: 

Amy Manzelli, Esq.